

done it in State legislatures all over the country. They are doing it today on this amendment that Senator KING and I have worked on.

They have turned loose their minions—their anti-consumer minions—and they are now out working, being paid to do whatever they can to defeat whatever we are trying to accomplish. Utilities have joined with the Koch brothers. Utilities are cheerleading this anti-competitive measure that will cost families more money and take away their opportunity to generate clean energy at home.

In Nevada, our utility proposed—and I say “utility” because basically 95 percent of all electricity in Nevada is owned by one company. This big utility proposed, and regulators recently agreed to slash, the value of rooftop solar for customers and imposed those changes retroactively. Can you imagine that? Contracts that had been let, they suddenly said: Well, too bad. We are going to retroactively punch you economically. The entire episode was detailed in a recent edition of the *New York Times*. “Nevada’s Solar Bait-and-Switch.”

This could apply to Arizona. They are trying to do the same thing there and other places in the country. I am not going to read the whole column, but I am going to read a few things:

In late December, the state’s Public Utilities Commission, which regulates Nevada’s energy market, announced a rate change drastic enough to kill Nevada’s booming rooftop solar market and drive providers out of the state. Effective Jan. 1, the new tariffs will gradually increase until they triple monthly fees that solar users pay to use the electric grid and cut by three-quarters—

Seventy-five percent—users’ reimbursements for feeding electricity into [the grid].

They already have a contract. That does not matter. The column goes on to say:

More startlingly, the commission made its decision retroactive. That means that the 17,000 Nevada residents who were lured into solar purchases by state-mandated one-time rebates of up to \$23,000 suddenly discovered that they were victims of a bait-and-switch. They made the deals assume that, allowing for inflation, their rates would stay constant over their contracts’ 20- to 30-year lifetimes; instead, they face the prospect of paying much more for electricity than if they had never made the change, even though they’re generating almost all of their electricity themselves.

That is the power of utilities and Koch brother-like operations that are doing this. The Koch brothers are doing it through a number of billions of dollars that they have invested in controlling America through an organization called ALEC, which is a phony front to work in State legislatures.

The utility in Nevada retroactively tore up the agreements that were made with families and businesses that generate their own clean energy, as indicated in this *New York Times* column. Because of what the utility did, at least three companies have left Ne-

vada, and tens of thousands of families and businesses fear that their power bills will unexpectedly skyrocket because of the changes, and thousands and thousands of Nevadans have lost their jobs—not hundreds, thousands. No one knows the exact number but nearing 10,000.

We should not be pulling the plug on clean energy at a time when more and more Americans are making it work. We should encourage independence. Competition is putting more clean power on our electric grid. We should support this growing solar industry, which is creating jobs. Solar alone created over 35,000 new jobs in 2015, a 20-percent growth rate. With what we did in the omnibus and the tax extenders at the end of the year, it is estimated that in the next 10 years there will be about 350,000 jobs in the solar industry.

That is why Senator KING and I have worked on amendment No. 3120, which would protect residential solar energy customers from the abuse that we have just talked about here and as outlined in the *New York Times*.

This amendment is good for consumers in Nevada and across the country. It will safeguard people who want to generate their own clean energy from retroactive rule changes that could devastate their finances. Unfortunately, monopoly utilities and ideological groups funded by the Koch brothers are working hard to defeat any protections for Americans who generate their own clean energy. Remember, the Koch brothers use their money in a lot of different ways, not the least of which is in the fossil fuel business.

These anti-competitive individuals are fighting our efforts to protect families and businesses from having their contracts torn up and having their bills skyrocket. My friend, the Senator from Maine is on the floor with me. I appreciate his advocacy. He has been at the forefront of this issue, a person who has extensive experience in this whole field, having been a Governor of the State of Maine when the power system there began to change.

He is the sponsor of this amendment. I have joined with him on this amendment. He has been an unwavering advocate for solar energy customers. I hope our colleagues will follow his example and stand for consumers and support each American’s choice to install clean energy on their homes and protect them from retroactive rate hikes and abusive fees.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will be in a period of morning business for 1 hour, with Senators permitted to speak

therein and with the time equally divided, with the Democrats controlling the first half.

The Senator from Maine.

#### SOLAR ENERGY

Mr. KING. Mr. President, the Democratic leader has just outlined the issue that is before us today. I want to put it into some context. The first thing I want to say is that what we are talking about today is the most fundamental of American economic principles—free-market competition. Free-market competition is what we are talking about here.

Now, as the Democratic leader outlined, for 135 years, our electrical system worked basically in the same way that it works today. It has worked because of central powerplants, wires, distribution and transmission systems, and homes. Homes and businesses and offices were the passive receptors of electricity. The utilities have done a wonderful job. I have worked with them over the years. They have done a complex job where the power has to be there when the switch is thrown. They have done a terrific job of serving the American public, but what the American public wants is not necessarily electricity itself, it wants what electricity can do.

A friend of mine once said, for example, that in this country every year, 5 million people buy quarter-inch drills, but nobody wants quarter-inch drills. What they want are holes. What the American people want are microwaves and televisions and computers and electricity and hot water in their homes. How that power comes is really not what they are concerned with, but they do want options.

A revolution has occurred. Without a doubt this system served us well for 130 years, but a revolution has occurred in the last 25 years. This chart dramatically shows what has happened. This is the price of a watt of solar energy. In the 1970s it was \$76. Today it is 36 cents. This is revolutionary. This is disruptive. This is change. What this has enabled is for us to now tap into that very large, fully permitted nuclear fusion device in the sky that delivers power wirelessly to every city, town, village and hamlet on Earth.

That is what we are talking about. Why is this important? For a number of reasons. If you combine the cheaper solar power with smart appliances that can use their power only when it is the most efficacious for the grid—smart meters that many of our grids now have, demand response that allows customers to diminish their demand at times of high demand on the grid, and new storage technologies, if you add all of those together, it is an entirely new world of electricity development. This is where we are today.

We still have central powerplants. We still have wires, but we have homes and businesses making their own electricity and storing their own electricity from that big nuclear fusion

plant up in the sky. This is a good development. No. 1, it empowers consumers. It empowers families.

Mr. REID. Will the Senator yield for a question?

It is also true, is it not, as we speak, that there is tremendous work being done on battery storage. That will change it even more; is that right?

Mr. KING. That is absolutely correct. That I will touch on in a moment. That potentially changes the relationship with utilities and with the grid system. This is a good thing. This provides competition. Our whole system is based upon competition. Everybody here talks about the power of the market. That is what we are talking about here.

It strengthens the grid by making it more resilient because power is going in two directions. We had a huge ice storm in Maine in 1998. The power went off. Everybody lost their power—600,000 people. The people who had generators in their homes could make their own power, but those were very few people. Now we are talking about a grid that is not wholly dependent upon a central powerplant but power goes in both directions.

I am on the Intelligence and Armed Services Committees. This is a national security issue. One of the great vulnerabilities of this country is a cyber attack on critical infrastructure. To the extent this infrastructure is self-healing and distributed, it is less subject to a catastrophic attack.

It saves money because it saves money on distribution and powerplants if people are making their own investments and you don't need the level of transmission and distribution wires. Of course it could substantially reduce our dependency upon fossil fuels. There are two possible reactions to this from the utility companies. One is to adopt, adjust, and reinvent themselves, as companies have done. I remember New England Tel. New England Tel is now Verizon. If they were still focused exclusively on landlines with the old black telephones, they would be long gone. Instead, they reinvented themselves because of a change of technology, and now they are one of the Nation's leading wireless providers. AT&T used to be Ma Bell. Now it is a leading wireless provider because they adapted, and they changed their whole business model based upon new economic realities. That is one option.

There are utilities in the country that are adopting that option; that are finding new business models, relationships with their customers, in order to participate in this system and be counselors and energy providers and consultants to their customers in this new world. On the other hand, they can fight, resist, and try to delay. That is what we are talking about here today. That is what has happened in Nevada, imposing high fixed fees that ostensibly are to recover the costs, but everybody knows the real purpose is to strangle this industry in its infancy.

I think those companies should think about the examples of Packard, Kodak, and Polaroid that failed to adapt, that failed to take account of new technological realities and ultimately failed. I don't think that is the future these companies want. This amendment is not a Federal takeover of State utility regulations. It provides guidance. It uses the term "take into account." All it says is that if you are going to change a net metering regime, or if you are going to impose fees, they have to be based upon data and analysis, not arbitrary fees that are designed to strangle the industry. It is not a mandate for net metering or any other kind of payment. Again, what we are trying to do is to make sure that the benefits to the grid from a home installation—whether it is demand, response, storage, whatever—are measured as well as the cost.

The issue is very simple. It is fair compensation to the customer for the energy they produce or save and fair compensation to the utility for maintaining the grid.

I know there are costs to the utility for maintaining the grid, and they have to be fairly compensated. But the question is fair. What is the right number? An arbitrary exorbitant fee that essentially makes the development of solar or storage unfeasible is not the right number.

The Democratic leader mentioned storage, and this is really an essential part of the discussion. As storage technology improves, this is where the utilities are most exposed. In my view, utilities are in a race with battery technology in order to determine who is going to provide the backup to the solar, wind, and demand response facilities in the house. Who is going to provide the backup?

If the utilities insist upon high, unreasonable fees, eventually—and I think "eventually" is within 5 years; it is not 10 years, 20 years or 30 years—people are going to say: I am going to do my own storage, my own backup in my basement, and cut the wires. Then the utility has lost the customer all together, and I don't think that makes any sense.

The real point is that change is coming anyway. The only question is whether it happens fairly, deliberately, and expeditiously and is fair to the customers as well as the utilities or whether it goes through a long series of individual fights State by State.

Mr. REID. Will the Senator yield for a question?

Mr. KING. I yield to the Democratic leader.

Mr. REID. I am wondering if my friend is aware of a couple of examples. In Nevada there is Tesla and Elon Musk. It is a massive company. He is building batteries for his vehicles and other things.

The Tesla plant I toured a few months ago is under construction. As to the floor plan, the only place in America with a bigger manufacturing

facility is the Boeing plant in Washington. That is how huge it is. The man who is running that plant for him indicated to me that they had found that the price, as indicated by the Senator from Maine, was so cheap with solar that it is going to be basically mostly solar, nothing else. Was the Senator aware of that?

Mr. KING. Absolutely, and I think that is what has to be part of the discussion, because if the utilities insist on fighting and trying to overprice their storage, people are just going to say: I am going to buy my own storage, put it in the basement, and cut the wire.

Mr. REID. And remember what he is manufacturing in this huge facility is batteries. So I would think Elon Musk, who has been sending people and cargo into space, is going to come up with an idea to make better batteries.

I would also suggest to my friend that the example of Packard and Kodak were very good examples. But more modern, I read a book a few months ago about Reed Hastings, the owner of Netflix, who had already been successful in another line of work when he went into Netflix. We all remember Blockbuster, where we would go to rent our movies. He went to Blockbuster and he said: I have an idea; here is what I would like to do.

They said: No, that is just a niche business. We are not interested.

Blockbuster is gone, and Netflix is every place. So the same thing is going to happen one way or another to these monopolies that have the power in our States. They should work something out to make sure they are ahead of the curve. Otherwise, they are going to be behind the curve—and fairly quickly.

Would the Senator agree with that?

Mr. KING. I would agree, and that is exactly where I would conclude. I am not anti-utility. I am pro-customer. I am pro-competition. I am pro-free markets. I believe the utilities have a tremendous opportunity here to modify and adapt their business model to maintain their relationship with their customers. But if they do not, then I am afraid that technological changes such as storage are going to overtake them, and they could go the way of Kodak, Blockbuster, and Polaroid. I don't want to see that happen because I think they have a tremendous value to contribute to this discussion.

I conclude by saying that this amendment is really a modest one. It is not a takeover of the regulatory process. It simply urges and advocates that the State public utilities commissions take into account the positive factors of solar as well as the costs in order to reach a fair compensation agreement between utilities and their customers.

This is the future. It is going to happen. The only question is whether it happens efficiently, fairly or by fighting. I would prefer the former option. I think this is an important part of the future of this country, and we have an important role to play in this body.

I urge support for this amendment.  
I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

### THE LEGAL SYSTEM

Ms. WARREN. Mr. President, across the street at the Supreme Court, four simple words are engraved on the face of the building: "Equal Justice Under Law." That is supposed to be the basic premise of our legal system: that our laws are just and that everyone—no matter how rich, how powerful or how well connected—will be held equally accountable if they break those laws.

But that is not the America we live in. It is not equal justice when a kid gets thrown in jail for stealing a car while a CEO gets a huge raise when his company steals billions. It is not equal justice when someone hooked on opioids gets locked up for buying pills on the street, but banking executives get off scot-free for laundering nearly a \$1 billion of drug cartel money.

We have one set of law on the books, but there are really two legal systems. One legal system is for big corporations, for the wealthy and the powerful. In this legal system, government officials fret about unintended consequences if they are too tough. In this legal system, instead of demanding actual punishment for breaking the law, the government regularly accepts token fines and phony promises to do better next time. In this legal system, even after huge companies plead guilty to felonies, law enforcement officials are so timid that they don't even bring charges against individuals who work there. That is one system.

The second system is for everyone else. In this second system, whoever breaks the law can be held accountable. Government enforcement isn't timid here. It is aggressive, and consequences be damned. Just ask the families of Sandra Bland, Freddie Gray, and Michael Brown about how aggressive they are.

In this legal system, the government locks up people for decades, ruining lives over minor drug crimes because that is what the law demands.

Yes, there are two legal systems—one for the rich and powerful and one for everyone else.

Last Friday I released a report about the special legal system for big corporations and their executives. The report is called "Rigged Justice," and it lists 20 examples from last year alone in which the government caught big companies breaking the law—defrauding taxpayers, covering up deadly safety problems, stealing billions from consumers and clients—and then just let them off easy. In most cases the government imposed fines and didn't require any admission of guilt. In the 20 cases I examined, just 1 executive went to jail for a measly 3 months, and that case involved 29 deaths. Most fines were only a tiny fraction of the company's annual profits, and some were

structured so that the companies could just write them off as a tax deduction.

It is all part of a rigged game in Washington. Big businesses and powerful donors, with their armies of lobbyists and lawyers, write the rules to protect themselves. And when they don't follow the rules, they work the system to avoid any real responsibility.

How can it be that corporate offenders are repeatedly left off the hook when the vast majority of Americans—Republicans, Democrats, and Independents—want tougher punishment and stronger new laws for corporate crimes?

Well, that is how a rigged system works. Giant companies win no matter what the American people want.

Currently, we can see the rigged game in action. Republican politicians love to say they are tough on crime. They love to talk about personal responsibility and accountability when they are back home in their districts. But when they come to Washington, they are pushing to make it even easier for corporate criminals to escape justice.

This is one example. It starts, actually, with a great idea: reforming the criminal justice sentencing system to help some of the thousands of people who have been locked away for years for low-level offenses. Legislators in both parties have been working for years to slowly build bipartisan momentum for sentencing the reform. This is enormously important—a first step away from a broken system where half of our Federal jails are filled with nonviolent drug offenders. But now, all of a sudden, some Republicans are threatening to block reform unless Congress includes a so-called mens rea amendment to make it much harder for the government to prosecute hundreds of corporate crimes—crimes for everything from wire fraud to mislabeling prescription drugs.

In other words, for these Republicans, the price of helping people unjustly locked up in jail for years will be to make it even harder to lock up a white collar criminal for even a single day.

That is shameful—shameful. It is shameful because we are already way too easy on corporate lawbreakers.

And that is not all. Tomorrow the House will be voting on another Republican bill. This one would make it much harder to investigate and prosecute bank fraud. Yes, you heard that right. Tomorrow the House will be voting on a Republican bill to make it much harder to investigate and prosecute bank fraud.

When the bankers triggered the savings and loan crisis in the late 1980s, more than 1,000 of them were convicted of crimes and many got serious jail time. Boy, bankers learned their lesson. Now the lesson was not "Don't break the law." The lesson they learned was "Get Washington on your side." And it worked.

After systemic fraud on Wall Street helped spark a financial crisis in 2008

that cost millions of Americans their jobs and their homes, Federal prosecutors didn't put a single Wall Street executive in jail. Spineless regulators extracted a few fines and then just moved on.

But I guess even those fines were just too much for the big banks and their fancy executives. So now they have gotten their buddies in Congress to line up behind a bill that would gut one of their main laws, called FIRREA, which the Justice Department used to impose those fines.

It has been 7 years since the financial crisis. A lot of people in Washington may want to forget, but the American people have long memories. They remember how corporate fraud caused millions of families to lose their homes, their jobs, and their pensions. They also remember who made out like bandits, and they didn't send us here to help out the bandits.

The American people expect better from us. They expect us to straighten out our criminal justice system and reform drug enforcement practices that do nothing but destroy lives and communities. They expect us to stand against unjustified violence. But they also expect us to protect the financial system and to hold Wall Street executives accountable when they break the law. They expect us to hold big companies accountable when they steal billions of dollars from taxpayers, when they rip off students, veterans, retirees or single moms; or when they cover up health or safety problems, and people get sick, people get hurt or people die because of it.

The American people know that we have two legal systems, but they expect us to fix it. They expect us to stand for justice. They expect us to once again honor the simple notion that, in America, nobody is above the law. And anyone in Congress who thinks they can simply talk tough on crime and then vote to make it harder to crack down on corporate criminals, hear this: I promise you—I promise you, the American people are watching, and they will remember.

I yield the floor.

The PRESIDING OFFICER (Mr. COTTON). The Senator from Michigan.

### FLINT, MICHIGAN, WATER CRISIS

Ms. STABENOW. Mr. President, I rise today to speak about an urgent and truly tragic situation in Flint, MI, and ask my colleagues in the Senate to look very hard at what has happened here and to help us address this issue.

This is a public health emergency on a massive scale. It is unprecedented. I don't know of any other American city where families in the entire city—in the entire city—can't drink their water, can't cook with their water, can't bathe their children with the water.

We need to be very clear. This morning, as every other morning now going on 2 years, people in Flint took showers by pouring bottled water over their